

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Shilitha Clark et al.,

Case No. 20-cv-2585 (DTS)

Plaintiffs,

ORDER

v.

Andrew M. Saul,
Commissioner of Social Security

Defendant.

Plaintiff Shilitha Clark sought childhood supplemental security income (SSI) benefits for her grandchild, R.C. The Social Security Administration (SSA) denied her claim, so Clark now seeks judicial review of the denial of those benefits. The SSA moved to dismiss this action, arguing that the Court lacks jurisdiction because Clark failed to exhaust her administrative appeal remedies by not requesting administrative review of the Administrative Law Judge's (ALJ) decision. Def.'s Mot. Dismiss, Dkt. No. 9. Clark, however, maintains that she has confirmed with the SSA that her case was reviewed and twice appealed. Pl.'s Letter, Dkt. No. 16.

The SSA claims that it denied Clark's claim on March 1, 2019 and again on June 17, 2019 after reconsideration. Clark requested a hearing before an ALJ, which occurred on August 18, 2020. The ALJ issued an adverse decision denying childhood SSI benefits on November 2. According to the SSA, Clark did not request administrative review of, or appeal, that adverse decision.

Clark's narrative is much different. Whereas the SSA claims the ALJ did not render a decision until the end of 2020, Clark maintains that her claim was reviewed and twice

appealed in 2019. She alleges that she contacted the SSA, which confirmed that a review hearing occurred on April 10, 2019 and, after the case was denied, it was appealed twice: on June 4, 2019 and October 28, 2019.

The Court noted these discrepancies and believed they were significant because each party was claiming that key events occurred in different years. The parties also disagreed about which events occurred during the administrative process. The Court ordered both parties to respond to the discrepancies and provide evidence to support their position. Order, Dkt. No. 19.

The Government responded, affirming that it reviewed its records and confirmed that the information was correct. Def.'s Reply, Dkt. No. 20. And it supported its position with administrative documents. Ms. Clark, by contrast, did not respond to the Court's request. After reviewing the record available to the Court, the Court finds that Clark did not exhaust all administrative appeal remedies because she did not request an Appeals Council review of the ALJ's decision. This Court thus lacks jurisdiction to entertain Clark's request for judicial review.

For these reasons, **IT IS HEREBY ORDERED:**

1. Defendant Andrew M. Saul's Motion to Dismiss for Lack of Jurisdiction [Docket No. 9] is **GRANTED**.
2. This matter is **DISMISSED WITHOUT PREJUDICE**.

LET JUDGMENT BE ENTERED ACCORDINGLY

Dated: June 4, 2021

s/ David T. Schultz
DAVID T. SCHULTZ
United States Magistrate Judge